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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,582	01/23/2002	Dennis P. Silver	11899	7015

26637 7590 03/05/2003

INTELLECTUAL PROPERTY LAW DEPARTMENT CASE LLC
700 STATE STREET
RACINE, WI 53404

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,582

Applicant(s)

SILVER, DENNIS P.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a latch" (cl. 2 & 11); "flightings" (cl. 2 & 11); "an actuator" (cl. 2); "a self-connecting coupled" (cl. 3, 11); "safety mechanism" (cl. 4); "remote controls" (cl. 7); means capable of relocating the segments "manually" (cl. 8); a hydraulic cylinder" (cl. 11) must be shown or the feature(s) canceled from the claim(s).

Elements which were not shown will not be treated on their merit.

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 3671

Claim Objections

2. Claim 1 is objected to because of the following informalities: "A horizontal" should be – a horizontal --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-5, 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 & 11 recite the limitation "lightings" in ln 6 & 8, respectively. There is insufficient antecedent basis for this limitation in the claim.

In re claim 5, a first segment & second segment is recited, however claim 1 already introduced two segments, clarification required. For examination purposes the segments are considered the same.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by ^{Scherr} (4,583,905)

In re independent claims 1, 6, and dependent claim 9, Scherr discloses an agricultural combine unloading auger comprising:

A vertical feed section (39), a horizontal outfeed first and second segments (381, 371) in coaxial arrangement during unloading (latched together at hinge joint 36);

In re claim 2 & independent claim 6, a hinge (at 36) coupling the two segments.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pakosh (4907402) and/or Howell et al (3721359).

Pakosh and/or Howell discloses a combine unloading system, wherein a vertical infeed (Pakosh, at ref 48; Howell, at ref 21) and longitudinal parallel to the combine longitudinal body outfeed section (ref 20 and ref 46 respectively).

Pakosh and/or Howell however do not disclose a hinged (by a latch for example) and relocated first and second segments from operation & storage position (such a well known mechanical or hydraulic means).

Scherr discloses that it has been known to provide a two segment outfeed section (see above), which as the applicant teaches to be well known for the hinge to be placed in a way to permit either transverse to the combine or downward at the rear combine hinge means.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide for the device of Pakosh and/or Howell with multiple segmented outfeed section as taught by Scherr, in order to pivot the delivery auger segment into a stored position for traveling so that they can travel without causing unacceptable obstruction (Scherr: col 1, lines 62-65).

Art Unit: 3671

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adams, Bergkamp et al., Linscheid et al., Grieshop, Pollard et al., Niewold, Pool, Koehnen, Tyler, Davidow, Hoeksema, Palmer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703 308 5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 308 8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.



Árpád Fábián Kovács
Examiner
Art Unit 3671

ÁFK
February 27, 2003